

From: Arpad Bergh
To: Mike Powell
Date: Thu, Feb 13, 2003 4:31 PM
Subject: <No Subject>

EX PARTE OR LATE FILED

96-98

Please find in the attached, last minute concerns with regard to the UNE Review from the Optoelectronics Industry Development Association.

Thank you for your consideration

Sincerely,

--

Arpad Bergh, President
OIDA
1133 Connecticut Ave, NW - Suite 600
Washington, DC 20036
Ph: 202-785-4426
<http://www.oida.org>

CC: Kathleen Abernathy, Commissioner Adelstein, Michael Copps, Kevin Martin, Christopher Libertelli, Matthew Brill, Lisa Zaina, Jordan Goidstein, Daniel Gonzalez

EX PARTE OR LATE FILED

From: Andre
To: Commissioner Adelstein
Date: Thu, Feb 13, 2003 8:33 AM
Subject: Line sharing - please preserve all competitor rights to copper and existing RTs

Dear Commissioner Adelstein,

Please preserve cheap competitor access to existing copper lines and RTs!

The expansion of broadband depends on reasonable prices to the consumer, which in turn hinges on the preservation of competition - not just inter-modal competition (i.e., DSL vs. Cable), but intra-modal competition (i.e., DSL vs. DSL as well). This is especially true because in many places, there is no choice - only DSL **OR** Cable is available.

Unless you preserve competitors' access, at very reasonable prices (determined by local regulators, who are in the best position to judge), to the copper lines to consumers' homes, you will in effect be creating "monopoly pools" across the country. And the RBOC and cable monopolists in these areas will cross subsidize their monopoly profits into areas where they face competition, with the effect of killing off their competition.

I have a masters' degree in economics, but it doesn't take anywhere near that to come to this rather obvious conclusion. Let's call a spade a spade.

Please preserve line sharing and access to EXISTING RTs at rates determined by local regulators. If RBOCs want to create new facilities to serve new markets, I suppose they could be granted exclusivity to those new investments - but they should not have any right to preferred or sole access to the existing network - it was paid for long ago by the taxpayers.

Thank you for your attention on this matter.

Sincerely,

Andre Williamson
Silver Spring, MD
301 585 2056

From: Beth Zivkovic
To: Kathleen Abernathy
Date: Thu, Feb 13, 2003 12:04 PM
Subject: Save the Platform

EX PARTE OR LATE FILED

EX PARTE OR LATE FILED



February 13th, 2003

Dear Commissioner Kathleen Abernathy:

I ask your support for the continued availability of the "UNE-Platform."

My company, Access One, offers local telephone service in select SBC territories. The company has achieved increasing success largely because it utilizes the combination of "unbundled network elements" – the UNE-Platform – to serve customers. It is absolutely critical that we have continued access to the UNE-Platform to remain competitive.

Unfortunately, the Regional Bell Operating Companies have launched a full-scale attack on the UNE-Platform, realizing it is a major threat to their continued market dominance. Their strategy is to impose certain restrictions on individual network elements that **would** destroy the competitive value of the UNE-Platform. If the RBOCs succeed, it will all but end any chance for consumers to enjoy the benefits of meaningful competition in local phone service.

Please oppose any effort at the Federal Communications Commission or at state agencies to limit the availability of the UNE-Platform. The UNE-Platform should be firmly and permanently established as a viable service option for competitive telecom carriers.

Thank you very much for your time and attention to this important matter.

Sincerely,

Beth Zivkovic

Access One Incorporated

From: Beth Zivkovic
To: Commissioner Adelstein
Date: Thu, Feb 13, 2003 12:05 PM
Subject: Save the Platform



February 13th, 2003

Dear Commissioner Jonathan Adelstein:

I ask your support for the continued availability of the "UNE-Platform."

My company, Access One, offers local telephone service in select SBC territories. The company **has** achieved increasing success largely because it utilizes the combination of "unbundled network elements" – the UNE-Platform – to serve customers. It is absolutely critical that we have continued access to the UNE-Platform to remain competitive.

Unfortunately, the Regional Bell Operating Companies have launched a full-scale attack on the UNE-Platform, realizing it is a major threat to their continued market dominance. Their strategy is to impose certain restrictions on individual network elements that would destroy the competitive value of the UNE-Platform. If the RBOCs succeed, it will all but end any chance for consumers to enjoy the benefits of meaningful competition in local phone service.

Please oppose any effort at the Federal Communications Commission or at state agencies to limit the availability of the UNE-Platform. The UNE-Platform should be **firmly** and permanently established as a viable service option for competitive telecom carriers.

Thank you very much for your time and attention to this important matter.

Sincerely,

Beth Zivkovic
Access One Incorporated

From: Bill Newton
To: Mike Powell, Kevin Martin, Kathleen Abernathy, Commissioner Adelstein, Michael Copps
Date: Thu, Feb 13, 2003 10:28 AM
Subject: <No Subject>

Florida Consumer Action Network
2005 Pan Am Cir Ste 200
Tampa, FL 33607

February X, 2003

Dear Chairman Powell and Commissioners Abernathy, Adelstein, Copps and Martin:

Almost seven years after Congress passed the groundbreaking Telecommunication Act, the promise of real local phone competition is finally starting to become a reality for consumers in Florida.

According to the most recent data released by your agency, new market entrants provide service to more than nine percent of local telephone lines in Florida, up from six percent in December 1999. As a result, tens of thousands of Florida residents are now benefiting from greater choice and better pricing in local phone service. .

However, just as competition begins to take hold, we understand that the Commission is considering a proposal that would significantly scale back or even eliminate the very regulations - known as Unbundled Network Element Platform, or UNE-P - that have played a critical role in promoting the recent surge in local phone competition.

Were the Commission to initiate such a major reversal of policy, all the progress that has been made in Florida to bring real local phone competition to residential markets would be reversed. Once again, consumers would be stuck with little or no choice, and the savings and service improvements that accompany increased competition would quickly evaporate.

Rather than adopting policies that would only serve to undermine telecom competition, we urge the Commission to demonstrate its commitment to the interests of consumers, and the future of competition, by reaffirming your support for UNE-P.

Indeed, according to a report issued recently by the National Association of State Consumer Advocates, the continued existence of UNE-P is vital to the future of local competition in local markets across the country.

The report found that, in many markets, the vast majority of residential and small business consumers who have switched their local phone service to a new competitor are served by market entrants who rely on the UNE-P system. In Texas, for example, competitors that depend on UNE-P provide service to 77 percent of switched customers. Without the current UNE-P structure, the report concludes, "it is unlikely that even the limited amount of residential competition that exists today could survive."

It is also critical that the Commission preserve the position of state regulators in maintaining and promoting competition in our telecom markets. State utility regulators like the Illinois Commerce Commission have played a vital part in opening local telephone markets across the country up to competition, and we believe that they are best placed to make decisions that impact local markets.

For local phone competition to continue to develop and flourish, state authorities must continued to have the flexibility to carry out their Congressionally mandated role of keeping local telephone markets open, and setting fair UNE-P prices.

Moreover, the Commission proposals that limit open access to communications networks, including fiber

networks are wrongheaded. Without open, nondiscriminatory access to broadband networks, consumers will not realized the full potential of the Internet. Recent FCC decisions on broadband access policy threaten to inhibit innovation ad consumer choice in the high-speed Internet marketplace.

The Federal Communications Commission has both an obligation and a responsibility to protect the public interest, and promote the interests of consumers. If the FCC opts to abandon the pro-competition UNE-P and broadband framework established by the Telecom Act, just as it begins to deliver real savings and benefits to ordinary consumers, it will have failed on both counts.

We thank you for your consideration of these important issues

Sincerely,

Bill Newton
Executive Director
Florida Consumer Action Network
2005 Pan Am Cir Suite 200
Tampa, FL 33607
813-077-6712
813-877-6651 FAX
Billn@fcan.org

From: Bob Henderson
To: Bob Henderson
Date: Thu, Feb 13, 2003 1:24 PM
Subject: Proposed FCC Changes Cost Consumers

Message sent to the following recipients:

Senator Levin
Senator Stabenow
Representative Dingell
Message text follows:

Bob Henderson
100 S 4th AVE 1005
Ann Arbor, MI 48104-1998

February 13, 2003

[recipient address was inserted here]

[recipient name was inserted here],

The Federal Communications Commission is considering taking actions that will restrict consumer choice by deregulating local phone service.

Millions of Americans like me could have their phone service threatened if the local phone companies aren't required to allow competitors access to the market. I'm also concerned about the Commission's move to relieve all broadband Internet access facilities of open access obligations.

Both of these key decisions will limit my choices as a consumer by lessening competition, diminishing cost savings and threatening consumer protections. As a constituent, I urge you to support competition and open access for local phone service.

Sincerely,

Bob Henderson

From: Buntrock, Ross A.
To: Mike Powell, Kathleen Abernathy. Michael Copps. Kevin Martin, Commissioner
Adelstein. Jordan Goldstein, Lisa Zaina. Daniel Gonzalez, Christopher Libertelli, Matthew Brill
Date: Thu, Feb 13, 2003 10:47 AM
Subject: <No Subject>

The attached letter was filed by 63 companies in the Triennial Review docket yesterday.

The information contained in this E-mail message is privileged, confidential, and may be protected from disclosure; please be aware that any other **use**, printing, copying, disclosure or dissemination of this communication may be subject to legal restriction or sanction. If you think that you have received this E-mail message in error, please reply to the sender.

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For more information about KELLEY DRYE & WARREN LLP please visit our website at <http://www.kelleydrye.com>.

February 12, 2003

Via Electronic Filing

Honorable Michael K. Powell, Chairman
 Honorable Kathleen Abernathy, Commissioner
 Honorable Jonathan Adelstein, Commissioner
 Honorable Michael Copps, Commissioner
 Honorable Kevin Martin, Commissioner
 Federal Communications Commission
 445 12th Street SW
 Washington, DC 20554

**Re: *Ex Parte*
CC Docket Nos 01-338, 96-98, and 98-147**

Chairman Powell and Commissioners:

On February 6, 2003, the National Association of Regulatory Utility Commissioners ("NARUC") proposed a set of unbundling principles and standards that warrants strong and serious consideration in this proceeding.¹ The framework articulated by NARUC is fully consistent with the D.C. Circuit's decision in *USTA*,² and we the undersigned 63 companies - urge the Commission to adopt this framework in the pending Triennial Review proceeding.

Our companies have invested billions of dollars in infrastructure, and have led the way in deploying innovative local telecommunications services to millions of consumers throughout the United States. Our business plans have been developed in reliance upon the twin promises of the 1996 Telecommunications Act and state and federal unbundling rules. State commissions have been the vanguard of our attempts to enter the local market and are the entities in by far the best position to undertake the "granular impairment" analysis required by *USTA*. The NARUC framework provides for that granularity.

NARUC articulates six principles that lie at the heart of its proposal. Of critical importance to new entrants in local telecommunications markets is the principle that all network elements that currently are made available for leasing pursuant to Section 251(c)(3) of the 1996 Act must continue to be made available until the states determine otherwise. In addition, the NARUC principles make clear that the FCC should not attempt to preempt state decisions, but instead should confirm that Congress gave states

¹ See Letter from David Svanda, President, NARUC, *et al.* to Chairman Powell, CC Docket Nos. 01-338, 96-98, and 98-147, filed February 6, 2003.

² *USTA v. FCC*, 290 F.3d 415, 422 (D.C. Cir. 2002) ("*USTA*").

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 February 12, 2003
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the right to establish additional unbundling obligations. The final key aspect of the NARUC proposal provides that state commissions must rule on requests to move items from the list of network elements that incumbents must provide.

NARUC's proposal would vest the fact-finding and decision-making burdens of considering whether to "delist" network elements with state commissions. In this way, the NARUC framework allows the Commission to respond appropriately to the decision of the D.C. Circuit in *USTA*, which directs the Commission to adopt an impairment standard that allows for detailed, fact-based application of the impairment factors rather than a uniform national rule that applies to every geographic market and customer class. The NARUC framework recognizes that the task of identifying specific unbundling needs for particular services offered by entrants to consumers in particular geographic areas is a highly-fact intensive process – a process the FCC cannot accomplish in this (or indeed, any other) general, national rule-making. The NARUC framework thus avoids the pitfall of implementing unbundling rules of "unvarying national scope" that the D.C. Circuit overturned in *USTA*. We believe that the framework contemplated by NARUC would help foster competitive conditions most conducive to continued entry, investment and vibrant competition.

At bottom, the NARUC framework will promote the continued growth and expansion of local competition by ensuring that innovative local telecommunications services are available to all consumers – including mass-market residential and small business customers – throughout the country. The framework does so by grounding the fact-specific "impairment" issues presented in the Triennial Review proceeding in the forums that can resolve them best. To the extent that unbundling obligations would need to be relieved in the future, that impairment analysis must take place on a market-by-market basis and, indeed, on a service-by-service basis. Since the NARUC framework recognizes the nuanced "impairment" inquiry that the law requires, we accordingly strongly urge you to follow this framework in making your final decision in the Triennial Review proceeding.

Sincerely,

/s/

Eric D. Brown
 President and Founder
 At American Discount Telecom

/s/

Richard Brown
 CEO
 AccessPoint, Inc.

Honorable Michael K. Powell, ~~et al.~~

February 12, 2003

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/s/

Tom Wright
CEO
Access Integrated Networks

/s/

Michael Conway
President and CEO
ACCXX Communications

/s/

Avio Lonstein
CEO
AireSpring

/s/

Becky Watson
Executive Vice Resident
Apollo Communications

/s/

Tom Gravina
President & CEO
ATX Communications

/s/

David Scott
President & CEO
Birch Telecom

/s/

Michael Weprin
CEO
BridgeCom

/s/

Lance C. Honea
CEO
Access One Inc.

/s/

Kevin Schoen
CEO
ACD Telecom, Inc.

/s/

Robert Buchta
President
AMI communications, Inc.

id

Tom Bade
President
Arizona Dialtone, Inc.

/s/

Joe Magliulo
Resident
Bast Telecom

/s/

Ken Baritz
CEO
BimessOnline.com, Inc.

/s/

Vern Kennedy
President & CEO
Broadview Networks

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/s/

William H. **Oberlin**
President and CEO
Bullseye Telecom, Inc.

Id

Rust Muirhead
CEO
Connecticut Telephone

Id

Gene E. Lane
President & CEO
Direct Line Communications

Id

Sean M. Dandley
Resident & CEO
DSCI Corporation

Id

Ed Jacobs
Resident & CEO
ECI Communications, Inc

Id

Richard **smith**
President & CEO
Eschelon Telecom Inc.

/s/

Jeff Buckingham
Resident
Call America

/s/

Patrick **Freeman**
Resident & CEO
Cordia Communications

/s/

Gregg T. Kamper
senior VP and General Manager
Dominion Telecom, Inc.

/s/

Robert Mocas
President
Easton Telaom Services, Inc.

/s/

Bruce Allen Summers
CEO
Enhanced Communications
Group, LLC

/s/

Joseph P. Gillette
President & CEO
Eureka **Broadband Corp.**

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February 12, 2003
Page 5

/s/

Red Parsons
Executive Vice President
eXpeTel

/s/

William Morrow
Vice-Chairman, CEO
Grande Communications

/s/

Richard S. Pontin
President
Ionex Telecommunications, Inc.

/s/

Jonathan Lieberman
President
ISN Communications

/s/

Roscoe Young
CEO
KMC Telecom

/s/

Mike Miller
CEO
Line Systems, Inc.

/s/

Gent Cav
President
G4 Communications Corp.

/s/

George Pappas
President and CEO
Groveline Communications

/s/

Joseph **Gregori**
CEO
InfoHighway communications

/s/

Larry Williams
Chairman
ITC^DeltaCom

/s/

Jerry Finefrock
Founder
LDMI Telecommunications Inc.

/s/

Freddie Bleiweiss
President
Loop **Zero Networks**

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February 12, 2003
Page 6

/s/

Jay Monaghan
Chief Service Officer
McGraw
communications

/s/

Alan L. Creighton
President & CEO
Momentum Business Solutions

/s/

Paul H. Riss
CEO
New Rochelle Telephone Corp.

/s/

William Bongiorno
Resident & CEO
NextGen Telephone, Inc.

/s/

Brad Worthington
Executive Vice President & COO
NTS communications, Inc.

/s/

Alan J. Powers
CEO
OneStar Communications, Inc.

/s/

Jerry E. Holt
Resident
Midwestern Telecommunications, Inc.

/s/

Dennis J. Ferra
CEO
Navigator Telecommunications, LLC

/s/

Jim Akerhielm
Resident & CEO
NewSouth Communications Corp.

/s/

William K. Miller
president
Northern Telephone & Data Corp.

/s/

Dick Boudria
Resident & CEO
NUI Telecom

/s/

Danny Bottoms
President & CEO
OnFiber Communications, Inc.

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February 12, 2003

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Id

Beverley Kerkes
Director of Operations
Planet Access, Inc.

/s/

Dennis Houlihan
President & CEO
Sage Telecom

/s/

Gabe Battista
Chairman & CEO
Talk America, Inc.

/s/

Bill Linsmeier
President & CEO
TCO Network Inc

/s/

A. Joe Mitchell, Jr.
President & CEO
VarTec Telecom

/s/

Gregg Smith
CEO
Z-Tel Technologies, Inc.

/s/

David C. McCourt
Chairman & CEO
RCN Telecom Services, Inc.

/s/

Jack Dayan
President & CEO
Spectrotel

Id

Dale Schmick
Vice President
The Pager & Phone Company

/s/

Daniel I. Galkin
COO
TMC communications Inc.

/s/

Mark Senda
CEO
Xspedius Management Co., LLC

cc: Dan Gonzalez (by electronic mail)
Matthew Brill (by electronic mail)
Jordan Goldstein (by electronic mail)
Lisa Zaina (by electronic mail)
Senator John McCain (by overnight mail)
Senator Fritz Hollings (by overnight mail)
Mr. Karl Rove (by overnight mail)

From: BUTCHBETZ@aol.com
To: Commissioner Adelstein
Date: Thu. Feb 13, 2003 8:14 AM
Subject: Line Sharing

Please keep line sharing as is.

Eliminating line sharing will lead to **less** choice and competition, and higher prices for consumers and small business for broadband services.

It also would slow the penetration of broadband services across the country delaying key benefits that can help the economy

Thank **You**

Richard Betz

From: C. Wayne Brashier
To: C. Wayne Brashier
Date: Thu, Feb 13, 2003 10:25 PM
Subject: Proposed FCC Changes Cost Consumers

Message sent to the following recipients:

Senator Hutchison
Senator Cornyn
Representative DeLay
Message text follows:

C. Wayne Brashier
16720 C. R. 831
Pearland, TX 77584-5060

February 13, 2003

[recipient address was inserted here]

[recipient name was inserted here].

The Federal Communications Commission is considering taking actions that will restrict consumer choice by deregulating local phone service.

Millions of Americans like me could have their phone service threatened if the local phone companies aren't required to allow competitors access to the market. I'm also concerned about the Commission's move to relieve all broadband Internet access facilities of open access obligations.

Both of these key decisions will limit my choices as a consumer by lessening competition, diminishing cost savings and threatening consumer protections. As a constituent, I urge you to support competition and open access for local phone service.

Sincerely,

Wayne Brashier

From: Carlos Ribadeneira
To: Carlos Ribadeneira
Date: Thu, Feb 13, 2003 6:34 PM
Subject: Proposed FCC Changes Cost Consumers

Message sent to the following recipients:

Senator Schumer
Senator Clinton
Representative Velazquez
Message text follows:

Carlos Ribadeneira
52-40 39th Dr., Apt. 12T
Woodside, NY 11377-4000

February 13, 2003

[recipient address was inserted here]

[recipient name was inserted here],

The Federal Communications Commission is considering taking actions that will restrict consumer choice by deregulating local phone service.

Millions of Americans like me could have their phone service threatened if the local phone companies aren't required to allow competitors access to the market. I'm also concerned about the Commission's move to relieve all broadband Internet access facilities of open access obligations.

Both of these key decisions will limit my choices as a consumer by lessening competition, diminishing cost savings and threatening consumer protections. As a constituent, I urge you to support competition and open access for local phone service.

Sincerely,

Carlos F. Ribadeneira

From: Carrie Stephens
To: Carrie Stephens
Date: Thu, Feb 13, 2003 12:09 PM
Subject: Proposed FCC Changes Cost Consumers

Message sent to the following recipients:

Senator Brownback
Senator Roberts
Representative Tiahrt
Message text follows:

Carrie Stephens
2920 North Athenian
Wichita, KS 67204

February 13, 2003

[recipient address was inserted here]

[recipient name was inserted here],

The Federal Communications Commission is considering taking actions that will restrict consumer choice by deregulating local phone service.

Train service was deregulated - we now have no train service.
Airline Service was deregulated - airlines went bankrupt and dropped like flies and are STILL having difficulties.

I could go on, but the info is available to all. I should have thought government would have learned that deregulation is NOT an answer.

Deregulating phone service will just add to the confusion. I would think a better plan could be made.

Sincerely,

Carrie Stephens

From: Charles Austin
To: Charles Austin
Date: Thu, Feb 13, 2003 8:36 PM
Subject: Proposed FCC Changes Cost Consumers

Message sent to the following recipients:

Senator Levin
Senator Stabenow
Representative Rogers
Message text follows:

Charles Austin
2809 Walmsley Cir
Lake Orion, MI 48360-1639

February 13, 2003

[recipient address was inserted here]

[recipient name was inserted here],

The Federal Communications Commission is considering taking actions that will restrict consumer choice by deregulating local phone service.

Millions of Americans like me could have their phone service threatened if the local phone companies aren't required to allow competitors access to the market. I'm also concerned about the Commission's move to relieve all broadband Internet access facilities of open access obligations.

Both of these key decisions will limit my choices as a consumer by lessening competition, diminishing cost savings and threatening consumer protections. As a constituent, I urge you to support competition and open access for local phone service.

Sincerely,

Charles E. Austin

From: Chuck Nielsen
To: Commissioner Adelstein
Date: Thu, Feb 13, 2003 10:24 PM
Subject: Please keep line sharing as is

Commissioner Jonathan S. Adelstein

Please keep line sharing as is

Eliminating line sharing will lead to less choice and competition, and higher prices for consumers and small business for broadband services.

It also would slow the penetration of broadband services across the country delaying key benefits that can help the economy

Thank You

Chuck Nielsen
(408) 243-5600

From: Courtney Walton
To: Courtney Walton
Date: Thu, Feb 13, 2003 9:54 AM
Subject: Proposed FCC Changes Cost Consumers

Message sent to the following recipients:

Senator Alexander

Message text follows:

Courtney Walton
5310 Village Garden Drive
Ooltewah, TN 37363

February 13, 2003

[recipient address was inserted here]

[recipient name was inserted here],

The Federal Communications Commission is considering taking actions that will restrict consumer choice by deregulating local phone service.

Millions of Americans like me could have their phone service threatened if the local phone companies aren't required to allow competitors access to the market. I'm also concerned about the Commission's move to relieve all broadband Internet access facilities of open access obligations.

Both of these key decisions will limit my choices as a consumer by lessening competition, diminishing cost savings and threatening consumer protections. As a constituent, I urge you to support competition and open access for local phone service.

Sincerely,

Courtney Walton